

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11821 OF 2015

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioner/sole accused in Cr.No.911 of 2015 on the file of Hayathnagar Police Station, Cyberabad, registered for the offences punishable under Section 420 of IPC.

2 Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor representing the State.

3 A perusal of the record reveals that the petitioner is the sole accused and the 2nd respondent is the de-facto complainant in the above said crime. As per the allegations made in the complaint, the petitioner herein entered into an agreement of sale with the second respondent agreeing to sell an extent of 150 sq. yards of land in Plot no.96, Suryve no.597 of Hayathnagar village for an amount of Rs.4,30,000/-. As per the allegations made in the complaint, though the 2nd respondent paid the entire sale consideration of Rs.4,30,000/- to the petitioner, the petitioner is postponing execution of the sale deed in favour of the second respondent. It is further alleged that the petitioner had executed the agreement of sale in favour of the second respondent suppressing the factum of civil disputes. The gist of the complaint is that the petitioner cheated the second respondent.

4 Whether the petitioner has cheated the second respondent or not will come to light during the course of investigation only. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings.

5 While disposing of the petition filed under Section 482 Cr.P.C, the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

6 Having regard to the facts and circumstances of the case on hand and also the principle laid down in **R.P.Kapoor v. State of Punjab, State of Haryana v. Bhajan Lal, V.Y.Jose v State of Gurajat** and **Teeja Devi v State of Rajasthan**, I am of the considered view that this is not a fit case to quash the proceedings at this stage.

7 The learned counsel for the petitioner submitted that the Station House Officer, Hayathnagar Police Station may be directed not to arrest the petitioner pending investigation in the crime.

8 Taking into consideration the nature of allegations made in the complaint and in view of the principle laid down by the Hon'ble apex Court in **Arnesh Kumar v State of Bihar**, the Station House Officer, Hayathnagar Police Station, is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Cr.No.911 of 2015.

8 Accordingly, this criminal petition is dismissed. As a sequel, miscellaneous petitions, pending if any in this Criminal Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 16th November, 2015

Kvsn